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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

W. ROCKE GARCIA et al.,
Plaintiffs and Respondents,
v.
FRANCHISE TAX BOARD,
Defendant and Appellant.

A122710

(San Francisco County
Super. Ct. No. CGC-06-456659)
ORDER MODIFYING OPINION
[NO CHANGE IN JUDGMENT]

BY THE COURT:

The opinion filed July 16, 2009, is modified by the insertion of a sentence on page four, first full paragraph, after the second sentence in that paragraph that reads:

“Taxpayers signed a promissory note dated December 31, 1994 promising to pay their wholly-owned corporation, GDC, almost \$3.4 million for the Mazzone property,” as follows:

The property had recently been appraised at over \$3 million, and FTB does not contend that the purchase price exceeded the property’s fair market value.

The modification does not change the appellate judgment. (Cal. Rules of Court, rule 8.264(c)(2).)

P.J.